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In re Application of
THIBAUT, Richard, et al.
Application No.: 10/596,290
PCT No.: PCT/US2004/040970
Int. Filing Date: 08 December 2004
Priority Date: 08 December 2003
Docket No.: CPG 03-26 KF
For: A PACKAGE WITH PILFER PROOF
ASSEMBLY

DECISION

ON PETITION UNDER

37 CFR 1.47(a)

This is a decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 26 July 2007.

BACKGROUND

On 08 December 2004, applicants filed international application PCT/US2004/040970, claiming a priority date of 08 December 2003. The deadline for payment of the basic national fee in the United States was 08 June 2006.

On 08 June 2006, applicants filed a transmittal letter for entry into the national phase in the United States accompanied by the basic national fee.

On 26 February 2007, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors was required.

On 26 July 2007, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration and the fee for a three month extension of time.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1), (3) and (4) have been met. (1) The petition fee of \$200 has been paid. (3) The petition lists the last known addresses of non-signing inventor Richard Thibault as 52 Sonia Lane, Broomall, PA 19008.

Item (2) has not been satisfied. The petition must supply proof that applicant refused to sign after being presented with the application papers (specification, including claims, drawings, and oath or

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declaration). MPEP §409.03(d). Applicant only claims to have sent one complete copy of the application papers to the non-signing inventor. This claim is not supported by a statement from someone with firsthand knowledge of the presentation. Apparently the papers were prepared by Alexandra Urban, but the only statement concerning the presentation of the papers is from David J. Silvia. Second, that submission never reached the non-signing inventor and applicant did not allot sufficient time for the inventor to receive and act upon the papers. A minimum reasonable deadline for acting upon paperwork is usually two weeks. Copies of documentary evidence supporting the presentation to Mr. Thibault of a complete copy of the application papers should be submitted. Further, a first hand statement of the facts supporting the presentation should be provided.

The power of attorney from Alexandra Urban does not ask that the Office change the correspondence address. Two of three inventors ask that the correspondence address be changed, but in the absence of a grantable 37 CFR 1.47(a) petition, that is not sufficient. As such, the correspondence address remains the one listed above.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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